

REMARKS/ARGUMENTS

Claims 1-20 are pending in the application. Claims 1-20 are subject to a restriction requirement.

On 10/26/05, the Examiner participated in a telephonic interview with the Applicant's agent Yuri Gruzdkov. The Applicant thanks the Examiner for the courtesy of that interview.

Restriction Requirement:

In accordance with the restriction requirement contained in the office action of 10/05/2005, the Applicant hereby elects Species A and D, which, according to the Examiner, are covered by claims 1-3, 9, 10, 17-19, and 20 with traverse.

MPEP § 803(I) provides that, for the restriction requirement to be proper, "Examiners must provide reasons and/or examples to support conclusions;" and MPEP § 808.02 further provides that, where related inventions are shown to be distinct, a restriction requirement must show by appropriate explanation one of the following: (i) separate classifications, (ii) separate status of the art, and (iii) a different field of search. The Applicant submits that the office action contains only conclusions stating that the identified species are distinct and does not give any reasons or examples as to why, in the Examiner's view, these species are distinct. Furthermore, the restriction requirement does not give any explanations in the MPEP-mandated form directed to any of items (i)-(iii) listed above. For these reasons, the Applicant submits that the restriction requirement in its present form does not conform to the form mandated by the MPEP.

In addition to being in improper form, the restriction requirement has the following substantive problems.

The restriction requirement does not identify the species to which, in the Examiner's view, claims 11 and 12 correspond. In view of this omission, the Applicant requests that claims 11 and 12 be added to the election made by the Applicant or a specific explanation be provided regarding claims 11 and 12.

On page 2 of the office action, the Examiner defines Species B as having two sensors and two filters and identifies claims 4-8 as the claims corresponding to Species B. In response, the Applicant notes that, among claims 4-8, only claim 6 recites "a second filter." Since none of claims 4-5 and 7-8 recites a second filter, the restriction of these claims as corresponding to Species B is clearly improper and should be withdrawn. The Applicant requests that claims 4-5 and 7-8 be added to the election made by the Applicant or a specific explanation be provided regarding claims 4-5 and 7-8.

On page 2 of the office action, the Examiner further defines Species C as having a plurality of sensors and filters and identifies claim 13 as the claim corresponding to Species C. In response, the Applicant notes that claim 13 recites a plurality of sensors and not a plurality of sensors and filters. It is therefore submitted that the restriction of claim 13 as corresponding to Species C is clearly improper and should be withdrawn. The Applicant requests that claim 13 be added to the election made by the Applicant or a specific explanation be provided regarding claim 13.

On page 3 of the office action, the Examiner identifies only claim 17 as generic. For the following reasons, the Applicant submits that claim 1 is also generic. According to MPEP § 806.04(d), a generic claim is a claim that reads on each embodiment view shown in the figures and does not include limitations not present in each of the added species claims. Claim 1 recites "a first sensor mounted onto a side of an optical fiber and optically coupled to said fiber, wherein, when interrogated with light coupled into the fiber, the first sensor generates an optical response corresponding to a first value of a first physical parameter to

provide a measure of the first value,” and embodiments of the invention are shown in Applicant’s Figs. 1, 4, and 5. The Applicant submits that claim 1 reads on each of these figures, because Figs. 1 and 4 show sensor 104 and Fig. 5 shows sensor 504. The Applicant further submits that, because claims 2-10 and 13-16 corresponding to the identified species depend variously from claim 1, claim 1 cannot possibly include limitations not present in each of these species claims. It is therefore submitted that claim 1 meets the criteria for a generic claim given in MPEP § 806.04(d) and, as such, is generic.

Based on the telephonic interview with the Examiner, Applicant’s understanding of the Examiner’s position with respect to claims 1, 4, and 13, which recite “a first sensor,” “a second sensor,” and “a plurality of sensors,” respectively, can be stated as follows: (I) the Examiner interprets claim 1 as limited to the embodiments having a single sensor and as not covering embodiments having two or more sensors; (II) the Examiner interprets claim 4 as limited to the embodiments having two sensors and as not covering embodiments having more than two sensors; and (III) the Examiner interprets claim 13 as limited to the embodiments having more than two sensors. It appears that the Examiner used this interpretation to identify Species A-C and restrict claims 1, 4, and 13. The Applicant submits that, as a matter of law, the Examiner’s interpretation is incorrect and cannot possibly justify the restriction requirement. More specifically, claim 1 covers embodiments that have one sensor, two sensors, and more than two sensors. Similarly, each of claims 4 and 13 covers embodiments that have two sensors and more than two sensors.

For all these reasons, the Applicant submits that the restriction requirement is improper and should be withdrawn.

Drawings:

On page 4 of the office action, the Examiner objected to the drawings because “they fail to show the second filter in the embodiment of the sensing system having two filters and two sensors as claimed, for example in claim 6.” In response, the Applicant directs the Examiner’s attention to Applicant’s Fig. 5 and page 6, lines 1-7, where two thin film filters 508a and 508b are shown and described. In view of this description, the Applicant submits that the stated objection to the drawings is improper and should be withdrawn.

Claim Objections:

On page 5 of the office action, the Examiner objected to claim 4 because the recitation of “the second sensor” lacks antecedent basis. In response, the Applicant directs the Examiner’s attention to line 1 of claim 4, where “a second sensor” is recited. In view of this recitation, the Applicant submits that the stated objection to claim 4 has no basis and should be withdrawn.

Double Patenting:

On page 5 of the office action, the Examiner suggested that claim 12 be canceled to avoid a double-patenting rejection over U.S. Patent No. 6,321,010. In response, the Applicant notes that claim 12 depends from claim 1, which recites a side-mounted sensor. Since the cited ‘010 patent does not disclose a side-mounted sensor, claim 12 cannot possibly be subject to a double-patenting rejection, the Examiner’s statement to the contrary notwithstanding.

In view of the above remarks, the Applicant believes that the entire application is in proper condition for being examined on the merits, and early and favorable action is respectfully solicited.

Respectfully submitted,

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